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ENCLOSURES (check all that apply)

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In the United States Patent and Trademark Office
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Appeal Brief

In re the Application of:

Daniel Arturo Delfin Farias and Ruben Alberto Wario Romo
Serial No. 09/712,584
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REPLENISHMENT MANAGEMENT SYSTEM AND METHOD

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I. Real Party in Interest

The entire right, title and interest in this patent application is assigned to real party in interest International Business Machines Corporation.

II. Related Appeals, Interferences, and Judicial Proceedings

Appellant, Appellant's legal representative, and Assignee are not aware of any other prior or pending appeals, interferences, and judicial proceedings which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of the Claims

Claims 1-69 are pending and have been rejected.

The final rejection of the claims in the Final Office Action dated April 21, 2005 (April 2005 FOA) is being appealed for all pending claims 1-69.

IV. Status of Amendments

No amendment was filed after receipt of the Final Rejection from which this Appeal was taken.

V. Summary of the Claimed Subject Matter

Independent claims 1, 20, and 39 concern ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC by performing a sequence of operations. With respect to the preamble, the Specification discloses that the supplier ships the components to the RSC (Specification, pg. 11, lines 14-17). The manufacturer-acquiring entity sends a Pull Order to the RSC computer to order the component parts in the RSC. (pg. 12, lines 14-20). Below is an explanation of the claimed subject matter referring to the specification and drawings, where the claim requirements are underlined:

(i) generating, by the acquiring entity, a request for a quantity of products With respect to this requirement, the Specification discloses that an ERP program at the

supplier 20 (FIG. 1) creates a separate record 62a, b...n for each part order in the database. (Specification, pg. 9, lines 23-26).

(ii) performing computer related operations to update a computerized inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order. With respect to this requirement, the Specification discloses that the database 60 has parts records 62a, b,n to store information about component parts requested by the manufacture. (Specification, pg. 6, lines 1-5).

(iii) performing computer related operations, by the acquiring entity, to process a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request. With respect to this requirement, the Specification discloses that that the manufacturer (e.g., acquiring entity) server 52 receives a request from the supplier for information on parts records 62a, b...n and then builds an HTML web page from information in the database that the supplier requested.. (Specification, pg. 10, lines 3-20)

(iv) performing computer related operations to process information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate. With respect to this requirement, the Specification discloses an HTTP server 52 in the manufacturer (acquiring entity) (FIG. 2) that receives the HTML input page with the commitment quantities the supplier entered. (Specification, pg. 10, line 28 to pg. 11, line 4, FIG. 5, blocks 514 and 516).

(v) performing computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity. With respect to this requirement, the Specification discloses that the HTTP server requests the database interface to update the commitment quantity field 120 (FIG. 3) of the record in the database with the information from the supplier. (Specification, pg. 11, lines 2-4, FIG. 5, block 516).

(vi) performing computer related operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity. With respect to this requirement, the Specification discloses that the RSC provides information for RSC Shipment Status 124 or Pull Order Status 126. The database interface 70 (at block 606) updates the part record(s) 62a, b...n with the RSC Shipment Status 124 or Pull Order Status 126 from the RSC. (Specification, pg. 13, lines 2-6, FIG. 6, blocks 604 and 606)

(vii) transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity. The pull process is initiated when the manufacturer server 10 sends a Pull Order to the RSC computer 30, i.e. ordering the delivery of component parts stored at the RSC to the manufacturing floor of the manufacturer 102. The Pull Order is initiated by the ERP program 50 as parts are needed. (Specification, pg. 12, lines 14-18)

Independent claim 58 includes all the requirements of claim 1 and additionally requires generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier. With respect to this additional requirement, the Specification discloses in block 850 of FIG. 8, an invoice document is automatically generated and payment to the supplier is processed according to the agreed upon payment term. (Specification, pg. 15, lines 16-26, FIG. 8, block 850).

Claims 5, 24, and 43 depend from claims 1, 20, and 39. Below is an explanation of the claimed subject matter referring to the specification and drawings, where the claim requirements are underlined:

determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC. With respect to this claim requirement, the Specification discloses that at block 708, the Days of Supply is calculated by dividing the inventory available at the RSC by a weighted

pull rate. The actual equation for the weighted pull rate is to be set by the manufacturer depending on the manufacturer's needs. For example, for a basic supply chain, the simplest formula for the weighted pull rate can be calculated by dividing the forecasted number of parts needed for the next *Y* number of weeks by the number of production days in those *Y* weeks to derive the Daily Going Rate ("DGR"). The Days of Supply would then be calculated by dividing present inventory by the DGR. (Specification, pg. 13, lines 16-28, FIG. 7, block 702) transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold: If the available days of supply are less than the fixed days of supply agreed with the manufacturer, the supplier will ship parts to comply with the manufacturer's agreed Days of Supply. (Specification, pg. 13, lines 13-15)

Claims 8, 27, and 46 depend from claims 1, 20, and 39 and require that the acquiring entity, database, supplier, and RSC are capable of communicating over a network, and further require: transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database. With respect to this claim, the Specification discloses that the built HTML input page is sent to the supplier computer 20, where the supplier can enter commitment quantities for one or more part records. (Specification, pg. 10, lines 26-28). FIG. 1 shows that the supplier 20, RSC 30 and manufacturer 10 servers communicate over a network 40. The Specification further discloses that the HTTP server 52 requests (at block 602) the database interface 70 to access the input template 67 and builds an HTML input page in which the RSC may enter input information on whether the parts have been received from the supplier or parts were shipped to the manufacturer. (Specification, pg. 12, line 24-27)

Claims 13, 32, and 51 concern ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC. With respect to the preamble, the Specification discloses that the supplier ships the components to the RSC (Specification, pg. 11, lines 14-17). The manufacturer-acquiring entity sends a Pull Order to the RSC computer to order the component parts in the RS. (Specification, pg. 12, lines 14-20). Below is an

explanation of the claimed subject matter referring to the specification and drawings, where the claim requirements are underlined:

(i) performing computer related operations to access information in computerized inventory database including product records. With respect to this requirement, the Specification discloses that the manufacturer (e.g., acquiring entity) server 52 receives a request from the supplier for information on parts records 62a, b...n and then builds an HTML web page from information in the database that the supplier requested.. (Specification, pg. 10, lines 3-20) Claim 32 recites this requirement with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the supplier computer 20 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive. With respect to this requirement, the Specification discloses that the database 60 has parts records 62a,b...n to store information about component parts requested by the manufacture. (Specification, pg. 6, lines 1-5).

wherein the inventory data base is capable of being updated from: information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive. With respect to this requirement, the Specification discloses that and ERP program at the supplier 20 (FIG. 1) creates a separate record 62a, b...n for each part order in the database. (Specification, pg. 9, lines 23-26).

and information received from the RSC indicating products shipped from the supplier for one specified product record. With respect to this requirement, the Specification discloses that the RSC provides information and the database interface 70 in the manufacturing system updates part records 62a, b, n (FIG. 2) with the RSC information. (Specification, pg. 13, lines 2-6, FIG. 6, blocks 604 and 606)

(ii) performing computer related operations to determine from the accessed information the requested quantity for one product record. The supplier 20 or

RSC 30 computer may supply the record ID 110 or access a view of the part records in the database 60 and then select particular part records from the view. (Specification, pg. 10, lines 5-8, FIG. 4) The part record includes a forecasted quantity 116 indicating the quantity of parts required from the supplier. (Specification, pg. 8, lines 5-7; FIG. 3) Claim 32 recites this requirement with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the supplier computer 20 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

(iii) performing computer related operations to update one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity determined from the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate. At block 514, the HTTP server 52 receives the HTML input page with the commitment quantities the supplier entered. In response, the HTTP server 52 requests the database interface 70 to update (at block 516) the commitment quantity field 120 of the relevant record with the information supplied by the supplier. (Specification, pg. 10, line 28 to pg. 11, line 4, FIG. 5) Claim 32 recites this requirement with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the supplier computer 20 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

Independent claims 18, 37, and 56 concern ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC. With respect to the preamble, the Specification discloses that the supplier ships the components to the RSC (Specification, pg. 11, lines 14-17). The manufacturer-acquiring entity sends a Pull Order to the RSC computer to order the component parts in the RS. (pg. 12, lines 14-20). Below is an

explanation of the claimed subject matter referring to the specification and drawings, where the claim requirements are underlined:

(i) performing computer related operations to access information in computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive. With respect to this requirement, the Specification discloses that that the manufacturer (e.g., acquiring entity) server 52 receives a request from the RSC for information on parts records 62a, b...n and then builds an HTML web page from information in the database that the supplier requested.. (Specification, pg. 10, lines 3-20) The Specification discloses that the database 60 has parts records 62a,b...n to store information about component parts requested by the manufacture. (Specification, pg. 6, lines 1-5). Claim 37 recites this requirement with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the RSC computer 30 communicating with the manufacturer server 10 via a network 40 shown in FIG.

1. (Specification, pg. 5, lines 7-16)

(ii) performing computer related operation to receive a pull order from the acquiring entity for products provided by the supplier. The pull process is initiated when the manufacturer server 10 sends a Pull Order to the RSC computer 30, i.e. ordering the delivery of component parts stored at the RSC to the manufacturing floor of the manufacturer 102. (Specification, pg. 12, lines 14-17) Claim 37 recites this requirement with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the RSC computer 30 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

(iii) performing computer related operations to update one product record in the inventory database with: information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity. At block 604, the HTTP server 52 receives an input page including inventory information for

specified part record(s) 62a, b,...n, indicating parts received from the supplier or parts shipped to the manufacturer. The RSC provides information for RSC Shipment Status 124 or Pull Order Status 126. The database interface 70 (at block 606) updates the part record(s) 62a, b...n with the RSC Shipment Status 124 or Pull Order Status 126 from the RSC. The updated information is then available to the supplier and manufacturer in the database 60. (Specification, pg. 12, line 27 to pg. 13, line 6; FIG. 6). The structure, material or acts described in the specification corresponding to this “means” language recited in claim 37 comprises the RSC computer 30 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

Claims 19, 38, and 57 depend from claims 18, 37, and 56. Below is an explanation of the claimed subject matter referring to the specification and drawings, where the claim requirements performed by the RSC are underlined:

receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity. The pull process is initiated when the manufacturer server 10 sends a Pull Order to the RSC computer 30, i.e. ordering the delivery of component parts stored at the RSC to the manufacturing floor of the manufacturer 102. (Specification, pg. 12, lines 14-20)
updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity. The HTTP server 52 requests (at block 602) the database interface 70 to access the input template 67 and builds an HTML input page in which the RSC may enter input information on whether the parts have been received from the supplier or parts were shipped to the manufacturer. (Specification, pg. 12, line 24 to pg. 13, line 6)

Claim 38 recites the limitation with “means” language. The structure, material or acts described in the specification corresponding to this “means” comprises the RSC computer 30 communicating with the manufacturer server 10 via a network 40 shown in FIG. 1. (Specification, pg. 5, lines 7-16)

VI. Grounds of Rejection to Be Reviewed on Appeal

A concise statement listing each ground of rejection presented for review is as follows:

A. Whether claims 1-38, 58-67, and 69 are unpatentable under 35 U.S.C. §103(a) over the admitted prior art in the Specification in view of Johnson (U.S. Patent No. 5,712,989).

B. Whether claims 39-57 and 68 are unpatentable under 35 U.S.C. §103(a) over the admitted prior art in the Specification in view of Johnson and further in view of Graves (U.S. H1743).

VII. Argument

A. Rejection Under 35 U.S.C. §103(a) Over the Admitted Prior Art in the Specification in View of Johnson (U.S. Patent No. 5,712,989)

1. Claims 1-4, 10-12, 20-23, 29-31, 58-67, and 69

Independent claim 1 concerns a method for ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC by performing a sequence of operations and requires: (i) generating, by the acquiring entity, a request for a quantity of products; (ii) performing computer related operations to update a computerized inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order; (iii) performing computer related operations, by the acquiring entity, to process a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request; (iv) performing computer related operations to process information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate; (v) performing computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity; (vi) performing computer related

operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and (vii) transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity.

In the rejection, the Examiner cited pgs. 1-2 and 6-8 of the Specification as “admitted prior art”. Applicants traverse this finding with respect to pages 6-8 because pages 6-8 are part of the “Detailed Description of the Preferred Embodiments”, and not the “Background Section”. Accordingly, Applicants submit that pgs. 6-8 do not comprise admitted prior art.

With respect to the “Background Section” on pages 1-2 of the Specification, the Examiner found that this admitted prior art includes a method of ordering products that comprises performing all of the recited sequence of operations/steps/function (except step (v)), and leaves other steps to be performed manually. (April 2005 FOA, pgs. 2-3) Applicants note that the Examiner has not cited with specificity any part of the Background Section that teaches or suggests the above listed claim requirements (iii), (iv), (vi) and (vii).

Applicants note that the Background Section discusses an RSC warehouse that maintains supplies from the supplier to be accessed by the manufacturer, and the goal of the RSC warehouse meeting the demand for components without over stocking. (Specification, pg. 1) Although the use of an RSC to warehouse products from a supplier was known, nowhere does the cited Background Section nor the cited Johnson teach or suggest that the acquiring entity perform computer operations to update an inventory database with information from the RSC indicating products shipped from the supplier to the RSC to satisfy the commitment quantity.

The Examiner cited element 372 of Johnson as teaching the claimed commitment quantity. (April 2005 FOA, pg. 3) Johnson states that at block 372, the distributor host computer 10 creates a confirmation data block to transmit to local computer 40 to confirm a purchase order. (Johnson, col. 20, lines 1-10). Johnson discusses a requisition system having a host computer 10 located at a distributor site and a local computer 40 used by a customer service representative (CSR) at or near the customer site and the

inventory. (Johnson, col. 2, lines 61-67). The CSR creates a purchase order at the local computer 40 and transmits this to the distributor host computer 10. The distributor host computer controls all inventory, pricing and requisitioning. (Johnson, col. 3, lines 10-15) In response to a customer purchase order, the distributor host computer 10 initiates a purchase order program to validate the order, price, etc. and then execute the purchase order. (Johnson, col. 18, line 51 to col. 19, line 30) The distributor host computer 10 then sends a confirmation data block to the customer local computer 40 if everything checks out and the purchase order can be satisfied. (Johnson, col. 20, lines 1-23)

The cited Johnson discusses a procedure where a customer places an order to a distributor computer. Nowhere does the cited block 372 and corresponding description of Johnson anywhere disclose the combination of claim requirements, including that the acquiring entity processes a request from the supplier for information on the requested quantity in a product record and then receives information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to an RSC to meet a requested quantity, where the supplier uses the requested information to determine the commitment quantity to indicate. In other words, with the claims, the supplier “pulls” information from the acquiring entity on a requested quantity and then indicates the commitment quantity the supplier intends to ship to the RSC. The cited Johnson teaches away from this requirement because the supplier/distributor in Johnson is pushed the purchase order from the customer local computer, and then determines whether that order can be satisfied. Further, nowhere does the cited Johnson or Background section anywhere disclose updating the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity.

Applicants further note that according to the Specification, an RSC is defined as a separate party from the supplier or acquiring entity. (Specification, pg. 1, lines 15-20) Johnson mentions that the distributor host database indicates quantities at the distributor warehouse. (Johnson, col. 3, lines 18-22) Applicants submit that the distributor warehouse does not suggest the claimed RSC because it is not a separate party from the supplier/distributor.

Further, the claims require that an inventory database be updated with a requested quantity for a product record from the acquiring entity, with information from the supplier on the commitment quantity the supplier intends to ship to the RSC, and with information from the RSC indicating products the supplier shipped to the RSC. The Examiner has not cited any prior art that teaches or suggests that three parties, the acquiring entity, supplier and RSC all provide information to update the inventory database as claimed.

Still further, even if one were to modify Johnson with the Background Section, the resulting combination would have an RSC warehousing goods from the distributor. The Examiner has not cited any prior art as teaching or suggesting that the supplier would, in response to pulling information on a requested quantity, submit a commitment quantity the supplier intends to ship to an RSC and that the RSC provides information on products shipped from the supplier to satisfy the commitment quantity.

In the Response to Arguments, the Examiner found that the Applicants argued the references individually and that one cannot show non-obviousness by attacking references individually. (April 2005 FOA, pgs. 5-6) Applicants traverse because the U.S. Court of Appeals for the Federal Circuit has reversed obviousness findings by the Examiner if “the prior art relied upon does not disclose, suggest, or render obvious the claimed invention, either individually or when combined.”¹ Here, the cited Johnson and Background section fails to teach or suggest many of the claim requirements when considered individually or when combined.

In particular, the cited Johnson and Background Section relied upon by the Examiner fails to teach or suggest the combination of claim requirements that the acquiring entity send to the supplier in response to a request information on a requested quantity and that the supplier use that information to indicate a commitment quantity of the number of products the supplier will ship to an RSC, and that the acquiring entity update the inventory database with information from the RSC on products received from the supplier to satisfy the commitment quantity.

¹ In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

Accordingly, Applicants request reversal of the rejection of claim 1 because the requirements of claim 1 are not disclosed in the cited combination of the Background Section and Johnson.

Applicants request reversal of the rejection of claims 2-4, 10-12, and 66 because these claims depend from claim 1.

Applicants request reversal of the rejection of claims 20-23, 29-31, and 67 because these claims substantially include the requirements of claims 1-4, 10-12, and 66 in system form, where the requirements of claims 1-4, 10-12, and 66 are patentable over the cited art for the reasons discussed above.

In the Final Office Action, the Examiner “deemed specious” Applicants claim that the system claims were patentable over the cited art because they included the requirements of the method claims in system format on the grounds that the apparatus claims must be structurally distinguishable from the prior art – apparatus claims cover what a device is, not what a device does. (FOA April 2005). Applicants traverse this finding.

The independent system claim 20 recites a processor and a resource planning program that is executed by the processor to perform a sequence of operations. Thus, this system claim 20 recites what a device is, i.e., a processor and executable program enabled to cause the processor to perform certain claimed operations. Further, independent system claim 32 and 37 recite limitations in means-plus-function format, which means the claims are interpreted to cover the corresponding structure disclosed in the Specification for performing the claimed operations.

Claim 58 includes the requirements of claim 1 and additionally requires generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier. Thus, claim 58 is patentable over the cited art for the reasons discussed with respect to claim 1.

Applicants request reversal of the rejection of claims 58, 59, 63-65 and 69 because these claims substantially include the requirements of claims 1, 3, 8, 9, 11, and 66, respectively, where the requirements of claims 1, 3, 8, 9, 11, and 69 are patentable over the cited art for the reasons discussed above.

2. Claim 5-7 and 24-26

First off, claims 5, 6, and 7 are patentable over the cited art because they depend from claim 1. Moreover, these claims provide additional grounds of patentability over the cited combination for the reasons discussed below.

Claim 5 depends from claim 1 and further requires: determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

Applicants note that the Examiner did not cite any specific sections of the Background section or Johnson as teaching or suggesting the additional requirements of claim 5.

The Background Section mentions that a resource planning system can be used to manage components based on a forecast demand. However, nowhere does the cited art teach or suggest that a determination of a number of days of supply at the RSC be made from information maintained in the same inventory database updated from information from the acquiring entity, supplier, and RSC.

Accordingly, Applicants request reversal of the rejection of claim 5 because the base claims from which this claim depends and the additional requirements of this claim is not disclosed in the cited combination of references.

Claims 6 and 7 depend from claim 5 and provide further details on how the average acquiring entity order rate is calculated from the product record in the database. Accordingly, these claims provide further grounds of patentability over the cited art for the reasons discussed with respect to claim 5.

Applicants request reversal of the rejection of claims 24-26 because these claims substantially include the requirements of claims 5-7 in system form, where the requirements of claims 5-7 are patentable over the cited art for the reasons discussed above.

3. Claims 8, 9, 27, and 28

First off, claims 8 and 9 are patentable over the cited art because they depend from claim 1. These claims provide additional grounds of patentability over the cited art for the reasons discussed below.

Claim 8 depends from claim 1 and further requires that the acquiring entity, database, supplier, and RSC are capable of communicating over a network, and transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

Applicants note that the Examiner did not cite any specific sections of the Background section or Johnson as teaching or suggesting the additional requirements of claim 8.

The above discussed Johnson mentions communication between a customer and distributor computers to submit a purchase order. However, the Examiner has not cited any art that teaches or suggest transmitting over a network an input page in which both a supplier and RSC, separate entities, enter data to update the same inventory database.

Accordingly, Applicants request reversal of the rejection of claim 8 because the base claims from which this claim depends and the additional requirements of this claim is not disclosed in the cited combination of references.

Claim 9 depends from claim 1 and includes the requirements of claim 8 on transmitting the input page and additional requirements receiving the input page transmitted by the supplier or RSC including a request for product record information; generating an information page including product record information for the product record specified in the received input page; and transmitting the information page to the requesting supplier or RSC over the network.

The Examiner has not cited any art that teaches these requirements of receiving an input page from the supplier or RSC and then generating an information page from the product record information in the inventory database to transmit to the supplier or RSC.

Accordingly, claim 9 provides further grounds of patentability over the cited art for the reasons discussed with respect to claim 8.

Applicants request reversal of the rejection of claims 27 and 28 because these claims substantially include the requirements of claims 8 and 9 in system form, where the

requirements of claims 8 and 9 are patentable over the cited art for the reasons discussed above.

4. Claims 13-17 and 32-36

Independent claim 13 includes requirements from claim 1 written from the perspective of the supplier computer, as opposed to claim 1 written from the perspective of an acquiring entity computer. Claim 13 recites a method for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising the supplier performing a sequence of computer related operations comprising: (i) performing computer related operations to access information in computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive, wherein the inventory data base is capable of being updated from: information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive and information received from the RSC indicating products shipped from the supplier for one specified product record; (ii) performing computer related operations to determine from the accessed information the requested quantity for one product record; and (iii) performing computer related operations to update one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity determined from the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate.

Independent claim 13 includes many of the requirements of claim 1 that distinguish over the cited combination of the Background Section and Johnson, including that the supplier perform computer related operations to access information in a computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive. Claim 13 further includes the distinguishing requirement that the supplier determine from the accessed “pulled” information the requested quantity for one product record and update one product record in the inventory database indicating a commitment

quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity. The supplier uses the accessed information to determine the commitment quantity to indicate.

Moreover, claim 13 includes the distinguishing requirement of claim 1 that the product record in the inventory database includes information from the RSC indicating products shipped from the supplier.

As discussed, the cited Johnson discusses how the distributor, i.e., supplier, receives a product order from the customer local computer and confirms the order. The claims require different operations in that the supplier accesses or pulls information from the product record, including the requested quantity, and then determines a commitment quantity the supplier intends to submit using the accessed/pulled information. The claims require the supplier update the product record with the commitment quantity determined from the accessed information. Johnson, on the other hand, describes a process where a customer computer sends a product order to a host computer at the distributor.

Moreover, claim 13 additionally includes the requirement that the supplier indicate a commitment quantity the supplier intends to ship to another party, the RSC. The Examiner has not cited any art teaching this additional requirement.

Accordingly, Applicants request reversal of claim 13 because the cited Johnson and Background Section, alone or in combination, do not teach the requirements of claim 13.

Applicants request reversal of the rejection of claims 14-17 because they depend from claim 13, which is patentable over the cited art and in condition for allowance for the reasons discussed above.

Applicants request reversal of the rejection of claims 32-36 because these claims substantially include the requirements of claims 13-17 in system form, where the requirements of claims 13-17 are patentable over the cited art for the reasons discussed above.

5. Claims 18 and 37

Independent claim 18 includes requirements from claim 1 written from the perspective of the RSC computer, as opposed to claim 1 written from the perspective of an acquiring entity computer. Independent claim 18 recites a method for ordering

products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising the RSC performing a sequence of computer related operations comprising: (i) performing computer related operations to access information in computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive; (ii) performing computer related operation to receive a pull order from the acquiring entity for products provided by the supplier; (iii) performing computer related operations to update one product record in the inventory database with: information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

The Examiner did not provide specific citations and references to the limitations of claim 18, such as an RSC entity computer accessing product records indicating a specified product and requested quantity, receiving a pull order from the acquiring entity for products from the supplier and updating one product record in the inventor with information on products shipped to the acquiring entity and information on products received from the supplier to satisfy the commitment quantity.

The cited Background Section nowhere teaches or suggest an RSC performing any of the claimed operations, such as receiving a pull order from an acquiring entity and then updating one product record in an inventory database with information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

Further, the cited Johnson nowhere teaches or suggests the claimed operations performed by the RSC, where products are supplied by a supplier to the RSC and pulled by the acquiring entity. Further, nowhere does the cited Johnson anywhere teach or suggest an RSC updating one product record in an inventory database with information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment

quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

Accordingly, Applicants request reversal of claim 13 because the cited Johnson and Background Section, alone or in combination, do not teach the requirements of claim 13.

Applicants request reversal of the rejection of claim 37 because this claim substantially includes the requirements of claim 18 in system form, where the requirements of claims 18 are patentable over the cited art for the reasons discussed above.

6. Claims 19 and 38

First off, claims 19 and 38 are patentable over the cited art because they depend from claim 18 and 37, respectively. These claims provide additional grounds of patentability over the cited art for the reasons discussed below.

Claim 19 additionally recites that the RSC performs: receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity; and updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity.

Applicants submit that the Examiner has not specified any part of the cited references that teaches or suggests that an RSC, in addition to an acquiring entity and supplier, updates a product record in the inventory database to indicate products shipped from the RSC to the acquiring entity.

Accordingly, Applicants request reversal of claim 19 because the cited Johnson and Background Section, alone or in combination, do not teach the additional requirements of claim 19.

Applicants request reversal of the rejection of claim 38 because this claim substantially include the requirements of claim 19 in system form, where the requirements of claims 19 are patentable over the cited art for the reasons discussed above.

B. Rejection Under 35 U.S.C. §103(a) Over the Admitted Prior Art in the Specification in View of Johnson and Further in View of Graves (U.S. H1743)

1. Claims 39-42, 48-50, and 68

Claim 39 requires a program for ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC. The claims require a sequence of operations comprising: generating, by the acquiring entity, a request for a quantity of products; performing computer related operations to update a computerized inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order; performing computer related operations by the acquiring entity to process a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request; performing computer related operations to process information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate; performing computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity; performing computer related operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity.

Applicants note that although the Examiner rejected claims 39-57 and 68 as obvious in view of Graves and Johnson, the Examiner did not cite any specific sections of Graves and Johnson in his findings. Applicants note the requirement of 37 CFR 1.104(c)(2) that "[w]hen a reference is complex or shows or describes inventions other

than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable". See, also, MPEP 707, pg. 700-100.

Graves discusses monitoring a storage tank and projects usage of chemicals stored in the storage tank. Based on the forecasts of the storage tank usage, Graves mentions that the processing unit 106 schedules and transmits purchase order releases to the chemical supplier. (Graves, col. 6, lines 36-55) Graves further discusses how the processing unit 106 can detect chemicals being added to the storage tank by monitoring the level of the tank, and then communicate receipt of the supplies to an accounting department to authorize payment of the delivered supplies. (Graves, col. 16, lines 4-22)

Claim 39 requires receiving a request for information from a supplier on the requested quantity and then receiving information from a supplier indicating a commitment quantity of a quantity the supplier intends to ship, wherein the supplier uses requested information transmitted from the acquiring entity to determine the commitment quantity.

Although the above cited Graves discusses how a manufacturer orders supplies based on monitored usage of chemicals, the Examiner has not cited any part of Graves that teaches or suggests the claim requirement that a supplier requests information on the requested quantity, i.e., pulls the information, and then receiving information from a supplier indicating a commitment quantity of a quantity the supplier intends to ship to an RSC, which is another entity. Further, nowhere does the cited col. 16 anywhere teach or suggest that the supplier uses previously requested information transmitted from the acquiring entity to determine the commitment quantity. Instead, in Graves, the supplier supplies more chemicals in response to a purchase order release from the manufacturer.

Applicants further submit that the Examiner has not cited any part of Graves that teaches the claim requirement of updating the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity after the commitment quantity is received.

The Examiner found that it would be obvious to involve an RSC in the claimed ordering process to accommodate an intermediary party. (April 2005 FOA, pg. 4). Even if one skilled in the art would be motivated to add a third party RSC to a supply chain,

nowhere does the cited art anywhere teach or suggest the specific claimed database operations to involve an RSC. For instance, the cited art does not teach or suggest modifying Graves to perform the specific claim requirement of updating the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity previously indicated by the supplier.

Thus, even if one modifies the cited Graves to include a third party RSC to warehouse the products, there still is no teaching or suggestion in the cited art that a product record in an inventory database updated by the supplier and acquiring entity would also be updated by the RSC indicating products shipped from the supplier to satisfy the commitment quantity.

Moreover, the Examiner has not cited any part of Johnson, Graves or the Background Section that teaches or suggests the claim requirements that the acquiring entity performs computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity the supplier intends to ship to the RSC; performing computer related operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity. The cited Background Section discusses an RSC but nowhere teaches or suggests that the acquiring entity update the inventory database with information from the RSC indicating products shipped from the supplier to the RSC to satisfy a commitment quantity.

Further, the claims require that an inventory database be updated with a requested quantity for a product record from the acquiring entity, with information from the supplier on the commitment quantity, and with information from the RSC indicating products the supplier shipped to the RSC. The Examiner has not cited any prior art that teaches or suggests that three parties, the acquiring entity, supplier and RSC all provide information to update the inventory database as claimed.

For all the above reasons, Applicants submit that claim 39 is patentable over the cited Graves because the cited Graves does not disclose, teach or suggest all the claim requirements.

Accordingly, Applicants request the reversal of the rejection of claim 39 because the requirements of claim 39 is not taught or suggested in the cited combination of the Background Section, Johnson, and Graves.

Applicants request reversal of the rejection of claims 40-42 and 48-50 because these claims depend from claim 39.

2. Claim 43-45

First off, claims 43-45 are patentable over the cited art because they depend from claim 39. Moreover, these claims provide additional grounds of patentability over the cited combination for the reasons discussed below.

Claim 43 depends from claim 39 and further requires: determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

Applicants note that the Examiner did not cite any specific sections of the Background Section, Johnson or Graves as teaching or suggesting the additional requirements of claim 5.

The Background Section mentions that a resource planning system can be used to manage components based on a forecast demand. Graves discusses a manufacturer using forecasting algorithms, such as the amount of a chemical used over time. Purchase order releases are scheduled and transmitted to the chemical supplier based on these estimates. (Graves, col. 6, lines 50-55)

Although the cited references discuss forecasting usage for ordering products, nowhere does the cited art teach or suggest that a determination of a number of days of

supply at the RSC be made from information maintained in the same database updated from information from the acquiring entity, supplier, and RSC.

Accordingly, Applicants request reversal of the rejection of claim 43 because the base claims from which this claim depends and the additional requirements of this claim is not disclosed in the cited combination of references.

Claims 44 and 45 depend from claim 43 and provide further details on how the average acquiring entity order rate is calculated from the product record in the database. Accordingly, these claims provide further grounds of patentability over the cited art for the reasons discussed with respect to claim 43.

3. Claims 46 and 47

First off, claims 46 and 47 are patentable over the cited art because they depend from claim 39. These claims provide additional grounds of patentability over the cited art for the reasons discussed below.

Claim 46 depends from claim 39 and further requires that the acquiring entity, database, supplier, and RSC are capable of communicating over a network, and transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

Applicants note that the Examiner did not cite any specific sections of the Background Section, Graves or Johnson as teaching or suggesting the additional requirements of claim 46.

The above discussed Johnson mentions communication between a customer and distributor computers to submit a purchase order. Further, Graves discusses a processing unit that monitors usage and components of inventory management statement and can communicate with the chemical supplier. (Graves, col. 6, lines 37-55 and col. 7, lines 30-38). However, the Examiner has not cited any art that teaches or suggest transmitting over a network an input page in which both a supplier and RSC, separate entities, enter data to update the same inventory database.

Accordingly, Applicants request reversal of the rejection of claim 46 because the base claims from which this claim depends and the additional requirements of this claim is not disclosed in the cited combination of references.

Claim 47 depends from claim 39 and includes the requirements of claim 46 on transmitting the input page and additional requirements receiving the input page transmitted by the supplier or RSC including a request for product record information; generating an information page including product record information for the product record specified in the received input page; and transmitting the information page to the requesting supplier or RSC over the network.

The Examiner has not cited any art that teaches these requirements of a receiving an input page from the supplier or RSC and then generating an information page from the product record information in the inventory database to transmit to the supplier or RSC.

Accordingly, claim 47 provides further grounds of patentability over the cited art for the reasons discussed with respect to claim 46.

4. Claims 51-55

Independent claim 55 includes requirements from claim 39 written from the perspective of the supplier computer, as opposed to claim 39 written from the perspective of an acquiring entity computer. Claim 55 recites a program for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising a computer useable media including at least one computer program capable of causing at least one computer to perform: accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive, wherein the inventory data base is capable of being updated from: (i) information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive and (ii) information received from the RSC indicating products shipped from the supplier for one specified product record; determining from the accessed information the requested quantity for one product record; and updating one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity after the supplier determines the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate.

Independent claim 51 includes many of the requirements of claim 39 that distinguish over the cited combination of the Background Section, Johnson, and Graves including accessing information in a computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive. Claim 51 further includes the distinguishing requirement of determining from the accessed information the requested quantity for one product record and update one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity. The supplier uses the accessed information to determine the commitment quantity to indicate.

Moreover, claim 51 includes the distinguishing requirement of claim 39 that the product record in the inventory database includes information from the RSC indicating products shipped from the supplier.

As discussed, the cited Johnson discusses how the distributor, i.e., supplier, receives a product order from the customer local computer and confirms the order. The cited Graves discusses an inventory management system at a manufacturer placing orders for chemicals. The claims require different operations in that the supplier accesses or pulls information from the product record, including the requested quantity, and then determines a commitment quantity the supplier intends to submit using the accessed/pulled information. The claims require the supplier update the product record with the commitment quantity determined from the accessed information. Johnson and Graves, on the other hand, describes a process where a customer computer sends a product order to a host computer at the distributor.

Moreover, claim 51 additionally includes the requirement that the supplier indicate a commitment quantity the supplier intends to ship to another party, the RSC. The Examiner has not cited any art teaching this additional requirement.

Accordingly, Applicants request reversal of claim 51 because the cited Johnson, Graves and Background Section, alone or in combination, do not teach the requirements of claim 51.

Applicants request reversal of the rejection of claims 52-55 because they depend from claim 51, which is patentable over the cited art and in condition for allowance for the reasons discussed above.

5. Claim 56

Independent claim 56 includes requirements from claim 39 written from the perspective of the RSC computer, as opposed to claim 39 written from the perspective of an acquiring entity computer. Independent claim 56 recites a program for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising a computer usable media including at least one computer program embedded therein that is capable or causing at least one computer to perform: accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive; receiving a pull order from the acquiring entity for products provided by the supplier; updating one product record the inventory data base with: (i) information indicating products shipped to the acquiring entity in response to one pull order and (ii) information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

The Examiner did not provide specific citations and references for the limitations of claim 56, such as an RSC entity computer accessing product records indicating a specified product and requested quantity, receiving a pull order from the acquiring entity for products from the supplier and updating one product record in the inventor with information on products shipped to the acquiring entity and information on products received from the supplier to satisfy the commitment quantity.

For instance, the Background Section nowhere teaches or suggest an RSC performing any of the claimed operations, such as receiving a pull order from an acquiring entity and then updating one product record in an inventory database with information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a

commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

Further, the Examiner has not cited any part of Johnson or Graves that teaches or suggests updating one product record in an inventory database with information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

Accordingly, Applicants request reversal of the rejection claim 56 because the cited Johnson, Graves and Background Section, alone or in combination, do not teach or suggest the requirements of claim 56.

6. Claim 57

First off, claim 57 is patentable over the cited art because it depends from claim 57. This claim provides additional grounds of patentability over the cited art for the reasons discussed below.

Claim 57 additionally recites that the RSC performs: receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity; and updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity.

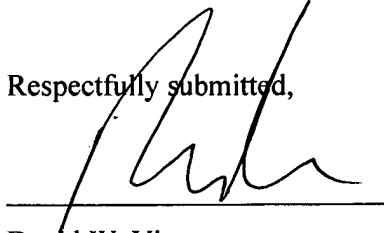
Applicants submit that the Examiner has not specified any part of the cited references that teaches or suggests that an RSC, in addition to an acquiring entity and supplier, updates a product record in the inventory database to indicate products shipped from the RSC to the acquiring entity.

Accordingly, Applicants request reversal of claim 57 because the cited Johnson and Background Section, alone or in combination, do not teach the additional requirements of claim 57.

VIII. Conclusion

Each of the rejections set forth in the Final Office Action is improper and should be reversed.

Respectfully submitted,



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IX. Claims Appendix

1. (Previously Presented) A method for ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC by performing a sequence of operation comprising:

- (i) generating, by the acquiring entity, a request for a quantity of products;
- (ii) performing computer related operations to update a computerized inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order;
- (iii) performing computer related operations, by the acquiring entity, to process a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request;
- (iv) performing computer related operations to process information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate;
- (v) performing computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity;
- (vi) performing computer related operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and
- (vii) transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity.

2. (Original) The method of claim 1, further comprising:
providing product record information in the database to the acquiring entity, supplier, and RSC.

3. (Original) The method of claim 1, further comprising:
determining a number of days of supply of products at the RSC for a product represented by the product record; and
ordering an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.
4. (Previously Presented) The method of claim 1, further comprising:
performing computer related operations to update the inventory database with information received from the acquiring entity for one product record indicating an order of products from the RSC to deliver to the acquiring entity to fulfill the order.
5. (Original) The method of claim 4, further comprising:
determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and
transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.
6. (Original) The method of claim 5, wherein the average acquiring entity order rate is determined from the product record information indicating a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.
7. (Original) The method of claim 5, wherein the average acquiring entity order rate is determined from the product record information indicating a number of the products the acquiring entity ordered from the RSC and a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

8. (Original) The method of claim 1, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further comprising:
transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

9. (Original) The method of claim 1, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further comprising:
transmitting over the network an input page in which the supplier and RSC enter information to request product record information from the database;
receiving the input page transmitted by the supplier or RSC including a request for product record information;
generating an information page including product record information for the product record specified in the received input page; and
transmitting the information page to the requesting supplier or RSC over the network.

10. (Original) The method of claim 1, further comprising:
generating a pre-shipment alert message to the RSC upon receiving the update to the database of the commitment quantity from the supplier.

11. (Original) The method of claim 1, wherein the acquiring entity comprises a manufacturer and the products comprises parts that the manufacturer uses in the manufacture of a product.

12. (Original) The method of claim 1, further comprising:
generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier.

13. (Previously Presented) A method for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising the supplier performing a sequence of computer related operations comprising:

(i) performing computer related operations to access information in computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive, wherein the inventory data base is capable of being updated from: information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive and information received from the RSC indicating products shipped from the supplier for one specified product record;

(ii) performing computer related operations to determine from the accessed information the requested quantity for one product record; and

(iii) performing computer related operations to update one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity determined from the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate.

14. (Original) The method of claim 13, further comprising:
receiving an order for an additional quantity of the products for one product record from the acquiring entity if a acquiring entity determines that number of days of supply for the product is less than a minimum threshold.

15. (Original) The method of claim 14, wherein the order is received from a acquiring entity.

16. (Previously Amended) The method of claim 13, wherein the supplier further performs:
performing computer related operations to update one product record in the inventory database indicating shipment status of products the supplier is shipping to the RSC to satisfy the commitment quantity for the product record being updated.

17. (Original) The method of claim 13, further comprising:
receiving a message from the acquiring entity if the commitment quantity is less than the requested quantity for the product record.

18. (Currently Amended) A method for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising the RSC performing a sequence of computer related operations comprising:

(i) performing computer related operations to access information in computerized inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive;

(ii) performing computer related operation to receive a pull order from the acquiring entity for products provided by the supplier;

(iii) performing computer related operations to update one product record in the inventory database with: information indicating products shipped to the acquiring entity in response to one pull order and information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

19. (Original) The method of claim 18, wherein the RSC performs:
receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity; and
updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity.

20. (Previously Presented) A system for ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising:
a processor; and

a resource planning program executed by the processor to perform a sequence of operations comprising:

- (i) generating a request for a quantity of products;
- (ii) updating an inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order;
- (iii) receiving a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request;
- (iv) receiving information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate;
- (v) updating the inventory database with the information received from the supplier to indicate the commitment quantity;
- (vi) means for updating the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and
- (vii) transmitting a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity.

21. (Previously Presented) The system of claim 20, wherein the operations further comprise:

providing product record information in the database to the acquiring entity, supplier, and RSC.

22. (Previously Presented) The system of claim 20, wherein the operations further comprise:

determining a number of days of supply of products at the RSC for a product represented by the product record; and

ordering an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

23. (Previously Presented) The system of claim 20, wherein the operations further comprise:

updating the inventory database with information received from the acquiring entity for one product record indicating an order of products from the RSC to deliver to the acquiring entity to fulfill the order.

24. (Previously Presented) The system of claim 20, wherein the operations further comprise:

determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and

transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

25. (Original) The system of claim 24, wherein the average acquiring entity order rate is determined from the product record information indicating a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

26. (Original) The system of claim 24, wherein the average acquiring entity order rate is determined from the product record information indicating a number of the products the acquiring entity ordered from the RSC and a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

27. (Previously Presented) The system of claim 20, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, wherein the operations further comprise:

transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

28. (Previously Presented) The system of claim 20, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, wherein the operations further comprise:

transmitting over the network an input page in which the supplier and RSC enter information to request product record information from the database;

receiving the input page transmitted by the supplier or RSC including a request for product record information;

generating an information page including product record information for the product record specified in the received input page; and

transmitting the information page to the requesting supplier or RSC over the network.

29. (Previously Presented) The system of claim 20, wherein the operations further comprise:

generating a pre-shipment alert message to the RSC upon receiving the update to the database of the commitment quantity from the supplier.

30. (Original) The system of claim 20, wherein the acquiring entity comprises a manufacturer and the products comprises parts that the manufacturer uses in the manufacture of a product.

31. (Original) The system of claim 20, further comprising:

generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier.

32. (Previously Presented) A system for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, a supplier computer comprising:

means for accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive, wherein the inventory data base is capable of being updated from: (i) information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive and (ii) information received from the RSC indicating products shipped from the supplier for one specified product record;

means for determining from the accessed information the requested quantity for one product record; and

means for updating one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity after the supplier determines the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate.

33. (Original) The system of claim 32, further comprising:

means for receiving an order for an additional quantity of the products for one product record from the acquiring entity if a acquiring entity determines that number of days of supply for the product is less than a minimum threshold.

34. (Original) The system of claim 33, wherein the order is received from a acquiring entity.

35. (Original) The system of claim 32, wherein the supplier machine further comprises:

means for updating one product record in the inventory database indicating shipment status of products the supplier is shipping to the RSC to satisfy the commitment quantity for the product record being updated.

36. (Original) The system of claim 32, further comprising:
means for receiving a message from the acquiring entity if the commitment quantity is less than the requested quantity for the product record.

37. (Previously Presented) A system for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, a RSC computer comprising:
means for accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive;
means for receiving a pull order from the acquiring entity for products provided by the supplier;
updating one product record in the inventory database with: (i) information indicating products shipped to the acquiring entity in response to one pull order and (ii) information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

38. (Original) The system of claim 37, wherein the RSC machine further comprises:
means for receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity; and
means for updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity.

39. (Previously Presented) A program for ordering products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising a computer usable media including at least one computer program embedded therein that is capable or causing at least one computer to perform a sequence of operations comprising:
generating a request for a quantity of products;

updating an inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order;

receiving a request from the supplier for information on the requested quantity from the product record in the inventory database and transmitting the requested information to the supplier in response to the request;

receiving information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity after the supplier requests information on the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate;

updating the inventory database with the information received from the supplier to indicate the commitment quantity;

updating the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy the commitment quantity; and

transmitting a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity.

40. (Original) The program of claim 39, further performing:
providing product record information in the database to the acquiring entity, supplier, and RSC.

41. (Original) The program of claim 39, further performing:
determining a number of days of supply of products at the RSC for a product represented by the product record; and
ordering an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

42. (Original) The program of claim 39, further performing:
updating the inventory database with information received from the acquiring entity for one product record indicating an order of products from the RSC to deliver to the acquiring entity to fulfill the order.

43. (Original) The program of claim 42, further performing:
determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and
transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

44. (Original) The program of claim 43, wherein the average acquiring entity order rate is determined from the product record information indicating a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

45. (Original) The program of claim 43, wherein the average acquiring entity order rate is determined from the product record information indicating a number of the products the acquiring entity ordered from the RSC and a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

46. (Original) The program of claim 39, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further performing:
transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

47. (Original) The program of claim 39, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further performing:

transmitting over the network an input page in which the supplier and RSC enter information to request product record information from the database;

receiving the input page transmitted by the supplier or RSC including a request for product record information;

generating an information page including product record information for the product record specified in the received input page; and

transmitting the information page to the requesting supplier or RSC over the network.

48. (Original) The program of claim 39, further performing:

generating a pre-shipment alert message to the RSC upon receiving the update to the database of the commitment quantity from the supplier.

49. (Original) The program of claim 39, wherein the acquiring entity comprises a manufacturer and the products comprises parts that the manufacturer uses in the manufacture of a product.

50. (Original) The program of claim 39, further performing:

generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier.

51. (Previously Presented) A program for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC, comprising a computer usable media including at least one computer program embedded therein that is capable or causing at least one computer to perform:

accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity the acquiring entity wants to receive, wherein the inventory data base is capable of being

updated from: (i) information received from the acquiring entity to add a product record including a requested quantity that the acquiring entity wants to receive and (ii) information received from the RSC indicating products shipped from the supplier for one specified product record;

determining from the accessed information the requested quantity for one product record; and

updating one product record in the inventory database indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity after the supplier determines the accessed information, wherein the supplier uses the accessed information to determine the commitment quantity to indicate.

52. (Original) The program of claim 51, further performing:

receiving an order for an additional quantity of the products for one product record from the acquiring entity if a acquiring entity determines that number of days of supply for the product is less than a minimum threshold.

53. (Original) The program of claim 52, wherein the order is received from a acquiring entity.

54. (Original) The program of claim 51, wherein the supplier further performs:

updating one product record in the inventory database indicating shipment status of products the supplier is shipping to the RSC to satisfy the commitment quantity for the product record being updated.

55. (Original) The program of claim 51, further performing:

receiving a message from the acquiring entity if the commitment quantity is less than the requested quantity for the product record.

56. (Previously Presented) A program for ordering products, wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an

acquiring entity obtains products from the RSC, comprising a computer usable media including at least one computer program embedded therein that is capable or causing at least one computer to perform:

accessing information in an inventory database including product records, wherein each product record indicates a specified product and a requested quantity that the acquiring entity wants to receive;

receiving a pull order from the acquiring entity for products provided by the supplier;

updating one product record the inventory data base with: (i) information indicating products shipped to the acquiring entity in response to one pull order and (ii) information indicating products received from the supplier to satisfy a commitment quantity of a number of the products the supplier is shipping to the RSC to meet the requested quantity.

57. (Original) The program of claim 56, wherein the RSC performs:

receiving an order from the acquiring entity computer for products for one product record to ship to the acquiring entity; and

updating the product record in the inventory database indicating products shipped from the RSC to the acquiring entity.

58. (Previously Presented) A method for purchasing products wherein the products are supplied by a supplier to a replenishment service center (RSC), wherein an acquiring entity obtains products from the RSC by performing a sequence of operations comprising:

(i) generating, by the acquiring entity, an order to acquire a requested quantity of products;

(ii) performing computer related operations to update computerized inventory database with a product record including a requested quantity that the acquiring entity wants to receive of the product based on the generated order;

(iii) performing computer related operations, by the acquiring entity, to process a request from the supplier for information on the requested quantity from the product

record in the inventory database and transmitting the requested information to the supplier in response to the request;

(iv) performing computer related operations to process information from the supplier indicating a commitment quantity of a number of the products the supplier intends to ship to the RSC to meet the requested quantity, wherein the supplier uses the requested information to determine the commitment quantity to indicate;

(v) performing computer related operations to update the inventory database with the information received from the supplier to indicate the commitment quantity;

(vi) performing computer related operations to update the inventory database from information received from the RSC indicating products shipped from the supplier for one specified product record to satisfy a commitment quantity;

(vii) performing computer related operations to update the inventory database with information received from the acquiring entity for one product record indicating an order of products from the RSC to deliver to the acquiring entity to fulfill the order;

(viii) transmitting, by the acquiring entity, a pull order to the RSC to ship products to the acquiring entity that the supplier shipped to the RSC to satisfy the commitment quantity;

(ix) generating an invoice once the ordered products are delivered to the acquiring entity and confirmed by the supplier.

59. (Original) The method of claim 58, further comprising:
determining a number of days of supply of products at the RSC for a product represented by the product record; and

ordering an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

60. (Original) The method of claim 58, further comprising:
determining a number of days of supply of products at the RSC for a product from information maintained in the product record as a function of the quantity of the products indicated in the product record as available at the RSC and an average acquiring entity order rate of the product from the RSC; and

transmitting an order for an additional quantity of the products to the supplier if the determined number of days of supply for the product is less than a minimum threshold.

61. (Original) The method of claim 60, wherein the average acquiring entity order rate is determined from the product record information indicating a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

62. (Original) The method of claim 60, wherein the average acquiring entity order rate is determined from the product record information indicating a number of the products the acquiring entity ordered from the RSC and a forecasted number of components to be ordered as indicated in the requested quantity information for the product record.

63. (Original) The method of claim 58, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further comprising:
transmitting over the network an input page in which the supplier and RSC enter data to update the inventory database.

64. (Original) The method of claim 58, wherein the acquiring entity, database, supplier, and RSC are capable of communicating over a network, further comprising:
transmitting over the network an input page in which the supplier and RSC enter information to request product record information from the database;
receiving the input page transmitted by the supplier or RSC including a request for product record information;
generating an information page including product record information for the product record specified in the received input page; and
transmitting the information page to the requesting supplier or RSC over the network.

65. (Original) The method of claim 58, wherein the acquiring entity comprises a manufacturer and the products comprises parts that the manufacturer uses in the manufacture of a product.

66. (Previously Presented) The method of claim 1, wherein the commitment quantity is capable of being less than the requested quantity the acquiring entity indicated in the product record.

67. (Previously Presented) The system of claim 20, wherein the commitment quantity is capable of being less than the requested quantity the acquiring entity indicated in the product record.

68. (Previously Presented) The program of claim 39, wherein the commitment quantity is capable of being less than the requested quantity the acquiring entity indicated in the product record.

69. (Previously Presented) The method of claim 58, wherein the commitment quantity is capable of being less than the requested quantity the acquiring entity indicated in the product record.

X. Evidence Appendix

None

XI. Related Proceedings Appendix

None



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37.09 DWV

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,584	11/14/2000	Daniel Arturo Delfin Farias	SJO919990173	9711

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/20/2006

Response due 2-20-06

Please find below and/or attached an Office communication concerning this application or proceeding.

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JAN 23 2006

Konrad Raynes
Victor & Mann, LLP

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/712,584

Applicant(s)

Farias et al.

Examiner

O'Connor

Art Unit

3627

FEB 27 2006 --The MAILING DATE of this communication appears on the cover sheet with the correspondence address--


The Appeal Brief filed on December 5, 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37(c) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief was filed on or after September 13, 2004 and does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a correct statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Rejected claims 29-38 not included/addressed is statement of grounds of rejection/arguments.

Copy of latest appeal brief content rules attached.


Gerald J. O'Connor
Primary Examiner
Art Unit: 3627

(c) Prior to the entry of a decision on the appeal by the Board, the Director may sua sponte order the proceeding remanded to the examiner.

[Added, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

§ 41.37 Appeal brief.

(a)(1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

(2) The brief must be accompanied by the fee set forth in § 41.20(b)(2)

(b) On failure to file the brief, accompanied by the requisite fee, within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(i) *Real party in interest.* A statement identifying by name the real party in interest.

(ii) *Related appeals and interferences.* A statement identifying by application, patent, appeal or interference number all other prior and pending appeals, interferences or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Copies of any decisions rendered by a court or the Board in any proceeding identified under this paragraph must be included in an appendix as required by paragraph (c)(1)(x) of this section.

(iii) *Status of claims.* A statement of the status of all the claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

(iv) *Status of amendments.* A statement of the status of any amendment filed subsequent to final rejection.

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in

each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(vi) *Grounds of rejection to be reviewed on appeal.* A concise statement of each ground of rejection presented for review.

(vii) *Argument.* The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board, unless good cause is shown. Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

(viii) *Claims appendix.* An appendix containing a copy of the claims involved in the appeal.

(ix) *Evidence appendix.* An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) *Related proceedings appendix.* An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

(2) A brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

(e) The time periods set forth in this section are extendable under the provisions of § 1.136 of this title for patent applications and § 1.550(c) of this title for ex parte reexamination proceedings.

[Added, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

§ 41.39 Examiner's answer.

(a)(1) The primary examiner may, within such time as may be directed by the Director, furnish a written answer to the appeal brief including such explanation of the invention claimed and of the references relied upon and grounds of rejection as may be necessary, supplying a copy to appellant. If the primary examiner determines that the appeal does not

comply with the provisions of §§ 41.31 and 41.37 or does not relate to an appealable action, the primary examiner shall make such determination of record.

(2) An examiner's answer may include a new ground of rejection.

(b) If an examiner's answer contains a rejection designated as a new ground of rejection, appellant must within two months from the date of the examiner's answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection:

(1) *Reopen prosecution.* Request that prosecution be reopened before the primary examiner by filing a reply under § 1.111 of this title with or without amendment or submission of affidavits (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. Any amendment or submission of affidavits or other evidence must be relevant to the new ground of rejection. A request that complies with this paragraph will be entered and the application or the patent under ex parte reexamination will be reconsidered by the examiner under the provisions of § 1.112 of this title. Any request that prosecution be reopened under this paragraph will be treated as a request to withdraw the appeal.

(2) *Maintain appeal.* Request that the appeal be maintained by filing a reply brief as set forth in § 41.41. Such a reply brief must address each new ground of rejection as set forth in § 41.37(c)(1)(vii) and should follow the other requirements of a brief as set forth in § 41.37(c). A reply brief may not be accompanied by any amendment, affidavit (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings.

[Added, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	D.A. Farias et al.	Examiner:	Gerald J. O'Connor
Serial No.:	09/712,584	Group Art Unit:	3627
Filed:	November 14, 2000	Docket No.:	SJO919990173
TITLE:	REPLENISHMENT MANAGEMENT SYSTEM AND METHOD		

RESPONSE TO NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

In a Notification of Non-Compliant Appeal Brief dated January 20, 2006, the Examiner found that the Appeal Brief is non-compliant because the statement of grounds for rejection/arguments did not include claims 29-38. Applicants submit herewith a new appeal brief with the grounds of rejection section including claims 29-38. Applicants further amended the grounds of rejection and argument section titles to conform to the format suggested in the Appeal Brief Rules. Applicants request entry and consideration of this new Appeal Brief.

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: February 21, 2006

By: _____

David W. Victor
Reg. No.: 39,867

Please direct all correspondences to:

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